



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

August 7, 2013

VIA FEDERAL EXPRESS

Mr. Randall Foss
Vice President
Foss Plating Company, Inc.
8140 Secura Way
Santa Fe Springs, CA 90670

Re: 104(e) Request for Information and Ability to Pay Application;
Omega Chemical Corporation Superfund Site, Los Angeles County, California

Dear Mr. Foss:

This relates to the Special Notice Letter ("SNL"), dated September 28, 2012, which the U.S. Environmental Protection Agency ("EPA") sent to Foss Plating Company, Inc. ("Foss Plating") as a potentially responsible party ("PRP") at the Omega Chemical Corporation Superfund Site ("Site"). In response to your January 28, 2013 letter to Kathleen Salyer, and as discussed recently with two EPA representatives, Lynda Deschambault and Steve Berninger, we are sending this request for additional information from you concerning Foss Plating's ability to contribute to Site cleanup. For your reference, we have enclosed two previous Foss Plating responses relating to the Site, as well as EPA's January 14, 2013 letter to Foss Plating.

Financial Concerns/Ability to Pay Settlements

First, if there are factors that limit Foss Plating's ability to participate in the Operable Unit 2 ("OU2") (groundwater) remedial work and/or pay some portion of EPA's past response costs, Foss Plating may complete and submit to EPA the enclosed Application for Parties with Limited Financial Abilities (the "ATP Application"), together with the requested financial documentation, **within fourteen (14) calendar days** of your receipt of this letter. Please return your written response to:

Abhik Dutta, SFD-7-5
U.S. Environmental Protection Agency, Region IX
Superfund Division
75 Hawthorne Street
San Francisco, California 94105

Section 104(e) Information Request

In addition, we request that you provide a complete and truthful written response to this Information Request and questions in Attachment B **within thirty (30) calendar days** of your receipt of this letter. Instructions on how to respond to the questions are described in Attachment A. Please return your written response to:

Keith Olinger, SFD-7-5
U.S. Environmental Protection Agency, Region IX
Superfund Division
75 Hawthorne Street
San Francisco, California 94105

Under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9604(e), EPA has broad information-gathering authority which allows EPA to require persons to furnish information or documents relating to:

- (a) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility;
- (b) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility; and
- (c) Information relating to the ability of a person to pay for or perform a cleanup.

Please note that your compliance with this Information Request is mandatory. Failure to respond fully and truthfully may result in an enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. §9604(e)(5). This statutory provision authorizes EPA to seek the imposition of penalties of up to \$37,500 per day of noncompliance. Please be further advised that provision of false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. §1001. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

Some of the information EPA is requesting may be considered by you to be confidential business information (CBI), as described in Title 40 of the Code of Federal Regulations, Subchapter A, Part 2, Subpart B (40 C.F.R., §2.201, *et seq.*). Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Attachment A, including the requirement for supporting your claim for confidentiality. Please be aware that EPA will maintain information consistent with the Privacy Act of 1974, 5 U.S.C. §552a, as amended.

This request for information is not subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act because it is not an “information collection request” within the meaning of 44 U.S.C. §§3502(3), 3507, 3512, and 3518(c)(1). See also 5 C.F.R. §§1320.3(c), 1320.4, and 1320.6(a). Furthermore, it is exempt from OMB review under

the Paperwork Reduction Act because it is directed to fewer than ten persons. 44 U.S.C. §3502(4), (11); 5 C.F.R. §§1320.4 and 1320.6(a).

Request for Contact Information

Your response should include the appropriate name, address, and telephone number of the person to whom EPA should direct future correspondence in regard to this matter on behalf of Foss Plating, if that person is not you.

As discussed in EPA's September 28, 2012 SNL, because Foss Plating has responsibility for remedial work proposed for OU2 at the Site, and we expect and strongly encourage Foss Plating to work with other Site PRPs to make a "good-faith offer" to conduct or finance this work and reimburse EPA for costs incurred to date.

If you have questions regarding the SNL or this Information Request, please contact Steve Berninger, Assistant Regional Counsel, at (415) 972-3909, or Keith Olinger, Enforcement Officer, at (415) 972-3125. If you have questions about the history of the Site, the nature of the environmental conditions at the Site, or the status of cleanup activities, please contact Lynda Deschambault, Remedial Project Manager, at (415) 947-4183.

We appreciate and look forward to your prompt response to this Information Request.

Sincerely,

A handwritten signature in cursive script that reads "Kathi Moore".

Kathi Moore, Manager
Case Development/Cost Recovery Section
Site Cleanup Branch
Superfund Division

Enclosures

- Ability to Pay Instructions and Questions
- Certification Statement for Ability to Pay Information
- Federal Tax Form 8821
- EPA Financial Statement for Businesses
- Foss Plating's March 27, 2008 Letter to EPA (on CD)
- Foss Plating's December 19, 2007 Letter to EPA (on CD)
- EPA's January 14, 2013 Letter to Foss Plating (on CD)

cc (cover letter via email only):

Steve Berninger, EPA

Lynda Deschambault, EPA

Keith Olinger, EPA

Keith Millhouse, OPOG

Gene Lucero, OPOG

Larry Gutterridge, OPOG

ATTACHMENT A: INSTRUCTIONS AND DEFINITIONS

Instructions:

1. Answer Each Question Completely. A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this Information Request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained. For the definition of “you” and other terms, please see the Definitions section below.
2. Number Each Answer. When answering the questions in Attachment B, please precede each answer with the corresponding number of the question and subpart to which it responds.
3. Number Each Document. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the question to which it corresponds.
4. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.
5. Identify Sources of Answer. For each question, identify all the persons and documents that you relied on in producing your answer.
6. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.
7. Scope of Request. The scope of this request includes all information and documents independently developed or obtained by research on the part of AAEL, its attorneys, consultants or any of their agents, consultants or employees.
8. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§9604(e)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. §6927(b), and 40 C.F.R. §2.203(b). If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- a. clearly identify the portions of the information alleged to be entitled to confidential treatment;
 - b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
 - c. measures taken by you to guard against the undesired disclosure of the information to others;
 - d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
 - e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
 - f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.
 - g. To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all nonconfidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.
 - h. All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.
9. Disclosure to EPA's Authorized Representatives. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. The authorized representatives of EPA to which EPA may disclose information contained in your response are as follows:

Department of Toxic Substances Control/
California Environmental Protection Agency

Toeroek Associates, Inc.
EPA Contract Number EP-BPA-11-W-001

Science Applications International Corporation
EPA Contract Number EP-BPA-11-W-001

CH2M Hill, Inc.
EPA RAC Contract Number EP-S9-08-04

Toeroek Herndon Joint Venture
EPA Contract Number EP-R9-12-02

ITSI, Inc.
EPA RAC Contract Number EP-S9-08-03

Techlaw
EPA ROC Contract Number EP-W-07-066

CB&I / Shaw Environmental & Infrastructure, Inc.
EPA RAC Contract Number EP-S9-13-02

Any subsequent additions or changes in EPA contractors who may have access to your response to this Information Request will be published in the Federal Register.

This information may be made available to these authorized representatives of EPA for any of the following reasons: to assist with document handling, inventory, and indexing; to assist with document review and analysis for verification of completeness; or to provide expert technical review of the contents of the response. Pursuant to 40 C.F.R. §2.310(h), you may submit comments on EPA's disclosure of any confidential information contained in your response by EPA to its authorized representatives along with the response itself, within the thirty (30) calendar day period in which the response is due.

10. Objections to Questions. If you have objections to some or all of the questions contained in the Information Request letter, you are still required to respond to each of the questions.

Definitions:

1. The term “you” or “Respondent” should be interpreted to include the addressee of this Information Request, and its officers, managers, employees, contractors, trustees, successors, assigns and agents.
2. The term “person” shall include any individual, firm, unincorporated association, partnership, corporation, trust, joint venture, or other entity.
3. The term “waste” or “wastes” shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge.

4. The term “hazardous waste” shall have the same definition as that contained in Section 1004(5) of RCRA.
5. The term “hazardous substance” shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
6. The term “release” has the same definition as that contained in Section 101(22) of CERCLA, and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including the abandonment or discharging of barrels, containers and other closed receptacles containing any hazardous substance or pollutant or contaminant.
7. The term “pollutant or contaminant” shall have the same definition as that contained in Section 101(33) of CERCLA and include any mixtures of such pollutants and contaminants with any other substance including petroleum products.
8. The term “materials” shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Omega Chemical Corporation facility, located at 12504 and 12512 E. Whittier Boulevard, Whittier, California, including, but not limited to, all hazardous substances, pollutants or contaminants.
9. The term “document” includes any written, recorded, computer generated or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.

ATTACHMENT B: QUESTIONS (INFORMATION REQUEST)

1. State the full legal name, address, telephone number, position(s) held by, and tenure of, the individual(s) answering any of these questions on behalf of Foss Plating Company, Inc. ("Foss Plating") and/or any of its predecessors, subsidiaries, affiliated businesses or commercial enterprises, or successor companies.
2. Foss Plating's March 27, 2008 104(e) response to EPA stated that it ceased doing business on October 15, 2005. The response indicated that Foss Plating's shut down activity consisted only of the process of selling off various equipment and supplies and cooperating with environmental remediation efforts. Information obtained from the California Secretary of State website indicates that Foss Plating currently has an active corporate status. Please confirm whether Foss Plating ceased doing business on October 15, 2005. If the company continued to operate under any subsequent names, provide these names and the date the last identity ceased doing business.
3. Provide documentation of Foss Plating's corporate suspension, close of business, and/or a Certificate of Dissolution and complete Articles of Dissolution. If Certificate of Dissolution and Articles of Dissolution are not available, please provide documents verifying that the company has ceased doing business and that all outstanding debts have been settled.
4. Describe the circumstances surrounding the suspension, close of business, and/or dissolution of Foss Plating, including in your answer the following:
 - a. The exact date of suspension, close of business, and/or dissolution;
 - b. The names and addresses of any and all shareholders at the time of suspension, close of business, and/or dissolution;
 - c. The value of all assets distributed to each shareholder as a result of the suspension, close of business, and/or dissolution;
 - d. The final disposition of all assets, liabilities, and shares of Foss Plating;
 - e. The identity of all parties to any transactions relating to or arising out of the suspension, close of business, and/or dissolution; and
 - f. The identity of all documents relating to the suspension, close of business, and/or dissolution.
5. State whether any business records of Foss Plating are still in existence. If the answer to this question is "yes", state the location of these records and produce:
 - a. all documents relating to the disposal of any wastes; and
 - b. all documents relating to the disposal of any hazardous substances, hazardous waste or solid waste at the Omega Chemical Corporation facility.
6. Identify any successor corporations or other entities of Foss Plating.
7. If Foss Plating was a subsidiary of another corporation, identify such other corporation and state the dates during which the parent/subsidiary relationship existed and the names and addresses of that corporation's president, chairman of the board and other officers.

8. Describe any asset purchase agreements, whereby some or all of the assets of Foss Plating were ever sold to any other entity, including the date(s), the companies involved and the terms of such asset purchase agreement(s).
9. Provide sale agreements for the final sale and/or transfer of company assets at the time operations ceased. Assets include, but are not limited to, common stock, use of company name, inventory, property and equipment, real estate, and other assets. If sale agreements are not available, provide the following information about the disposition of the company assets: a description of the assets, the name of purchaser of the assets, the date of sale, and the price received for the assets.
10. Identify all property, casualty and/or liability insurance policies, and any other insurance contracts, held by the company or any predecessor entity of the entity from the time the company or its predecessor entity began operations until the present. In identifying such policies, state:
 - a. The name and address of each insurer and of the insured;
 - b. The type of policy and policy numbers;
 - c. The effective dates for each policy; and
 - d. The per occurrence policy limits of each policy.
11. Foss Plating's December 19, 2007 correspondence with EPA indicated that there were few assets remaining in the company's possession, including the real property at 8140 Secura Way, Santa Fe Springs, CA 90670 (the "Facility"), and any remaining equipment and supplies. Please describe the current assets of Foss Plating and provide any documentation of the value of all of Foss Plating's remaining assets.
12. Please refer to the enclosed letter from EPA to Foss Plating dated January 14, 2013 requesting information on all activities related to groundwater monitoring and any remedial activities proposed or in progress at the Facility. Provide all of the information requested in EPA's letter, including answers to the specific questions included in the letter.
13. Provide the source of funding for Foss Plating's groundwater well installation and monitoring activities during the past year and any other ongoing or planned investigation or remediation at the Facility. EPA has obtained information that Foss Plating has arranged a payment plan with the California Department of Toxic Substances Control for the groundwater monitoring and remediation activities at the Facility. Provide the details of that arrangement, including any documentation of the agreement.
14. If you have any reason to believe that there may be persons able to provide a more detailed or complete response to any part of this information request or who may be able to provide additional responsive documents, please identify such persons, including their last known addresses and telephone number.



September 18,2013

Dear Customer:

The following is the proof-of-delivery for tracking number **546221780576**.

Delivery Information:

Status:	Delivered	Delivered to:	Receptionist/Front Desk
Signed for by:	J.PEREZ	Delivery location:	8140 SECURA WAY SANTA FE SPRINGS, CA 90670
Service type:	FedEx Priority Overnight	Delivery date:	Aug 8, 2013 09:46
Special Handling:	Deliver Weekday Direct Signature Required		



Shipping Information:

Tracking number:	546221780576	Ship date:	Aug 7, 2013
		Weight:	0.5 lbs/0.2 kg

Recipient:
Randall Foss
Foss Plating Company, Inc.
8140 Secura Way
SANTA FE SPRINGS, CA 90670 US

Shipper:
Omega
Toeroek Associates, Inc.
1300 Clay Street
Suite 450
Oakland, CA 94612 US
9032-006

Reference

Thank you for choosing FedEx.